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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/552,194      | 10/12/2006  | Matthew A. Nugent    | 701586-53702        | 8409             |

50607 7590 10/25/2007  
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| EXAMINER |
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UNDERDAHL, THANE E

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| ART UNIT | PAPER NUMBER |
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1651

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| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

10/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/552,194 | <b>Applicant(s)</b><br>NUGENT ET AL. |  |
|                              | <b>Examiner</b><br>Thane Underdahl   | <b>Art Unit</b><br>1651              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. The groups and the claims they include are as follows:

Group I, claim(s) 1-16 and 23-30, are drawn to a device comprise an extracellular matrix having an internal pH between 4.0 and 6.0 that contains a heparin or heparin related compound that binds a protein and the binding is pH dependant.

Group I, claim(s) 17-22, are drawn to a method for stimulating angiogenesis at a clinically relevant site in a mammal by administering an effective amount of the device from claim 1.

(a) An international or national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those invention involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the **CLAIMED INVENTIONS, CONSIDERED AS A WHOLE, MAKES OVER THE PRIOR ART.**

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because the invention AS CLAIMED is known in the art, see (U.S. Patent # 5,613,982), and thus no special technical feature unites these inventions in a category. The cited patent teaches an ECM based transplant tissue matrix that can contain heparin that inherently binds to fibronectin to enhance vascular growth that can have a pH that is alter alterable with the pH profile of the bound protein (claim 9). The matrix is exposed to a pH between 5.5 and 8 (col 5, lines 55-60).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37

CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thane Underdahl whose telephone number is (571) 272-9042. The examiner can normally be reached on Monday-Thursday 8:00 to 17:00.

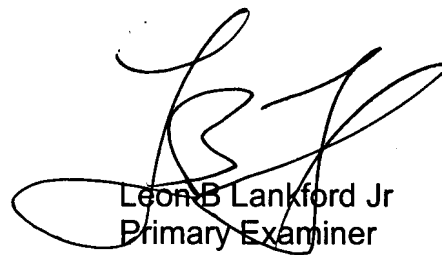
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit: 1651

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Thane Underdahl  
Art Unit 1651



Leon B Lankford Jr  
Primary Examiner  
Art Unit 1651